

HOUSE BILL 3088

By Casada

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 13, Part 2, relative to appeals and the
review of sentences of death.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-206, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) Whenever the death penalty is imposed for first degree murder and when the judgment has become final in the trial court, there shall be an automatic direct appeal of the conviction and the sentence of death to the Tennessee supreme court. The clerk shall docket the case in the supreme court and the case shall proceed in accordance with the Tennessee Rules of Appellate Procedure.

(2) If the defendant has been convicted of first degree murder and sentenced to death, the record as to guilt and sentence shall be expeditiously filed with the supreme court within the time limit provision of Tennessee Rules of Appellate Procedure, Rules 24 and 25. If the defendant has been convicted of other crimes at the same trial where a death sentence is imposed, the court of criminal appeals shall have authority to review by direct appeal the other crimes, and the conviction of first degree murder and sentence of death shall be reviewed by the supreme court.

(b) The appeal of the conviction of first degree murder and the review of the sentence of death shall have priority over all other cases and shall be heard according to

the rules promulgated by the Tennessee supreme court. The supreme court shall first consider any errors assigned and then the court shall review the sentence of death.

(c)

(1) In reviewing the sentence of death for first degree murder, the supreme court shall determine whether:

(A) The sentence of death was imposed in any arbitrary fashion;

(B) The evidence supports the jury's finding of statutory aggravating circumstance or circumstances;

(C) The evidence supports the jury's finding that the aggravating circumstance or circumstances outweigh any mitigating circumstances; and

(D) The sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the nature of the crime and the defendant.

(2) The Tennessee supreme court may promulgate rules as it deems appropriate to establish such procedures as are necessary to enable it to properly review the death sentence.

(d) In addition to its other authority regarding correction of errors, the Tennessee supreme court, in reviewing the death sentence for first degree murder, is authorized to:

(1) Affirm the sentence of death; or

(2) Modify the punishment to imprisonment for life without possibility of parole or imprisonment for life.

(e) In the event that any provision of §§ 39-13-202 — 39-13-205 or this section, or the application of the sections, to any individual or circumstance is held to be invalid or unconstitutional so as to permanently preclude a sentence of death as to that

individual, the court having jurisdiction over the individual previously sentenced to death shall cause the individual to be brought before the proper court, which shall, following a sentencing hearing conducted in accordance with § 39-13-207, sentence the person to imprisonment for life without possibility of parole or imprisonment for life.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to all first degree murder convictions in which the penalty of death is imposed occurring on or after such date.